

REMARKS

Claims 19-56 are pending in this application. Claims 37 and 38 have been amended to correct an inadvertent, typographical error. Entry of this Amendment is respectfully requested under 37 C.F.R. § 1.116 because the Amendment merely corrects a dependency issue addressed in the rejection, as detailed below. Reconsideration and allowance of the present application are respectfully requested.

Rejections under 35 U.S.C. §112, First Paragraph

Claims 39-56 stand rejected under 35 USC § 112, first paragraph, because the specification allegedly does not provide sufficient support for the claims to be in compliance with the written description requirement. Applicants respectfully traverse this rejection because the claims have full support in the specification as originally filed.

The first paragraph of 35 U.S.C. § 112, states that “[t]he specification shall contain a written description of the invention ... in such full, clear, concise, and exact terms as to enable any person skilled in the art ... to make and use the same...” Descriptive matter may be inherently present in a specification if one skilled in the art would necessarily recognize such a disclosure. *Continental Can Co. USA v. Monsanto Co.*, 948 F.2d 1264, 1268, 20 USPQ2d 1746, 1749 (Fed. Cir. 1991).

As stated in MPEP § 2163.04, the inquiry into whether the description requirement is met must be determined on a case-by-case basis and is a question of fact. *In re Wertheim*, 541 F.2d 257, 262, 191 USPQ 90, 96 (CCPA 1976). The examiner has the initial burden of presenting evidence or reasons why persons skilled in the art would not recognize in an applicant's disclosure a description of the invention defined by the claims. 541 F.2d at 265, 191 USPQ at 98. See also *Ex parte Soren-son*, 3 USPQ2d 1462, 1463 (Bd. Pat. App. & Inter. 1987).

In addition, Applicants point out that the present disclosure recites in paragraph [0041]:

As examples, the various illustrative logical blocks, modules, circuits, and algorithm steps described in connection with the embodiments disclosed herein may be implemented or performed with a digital signal processor (DSP), an application specific integrated circuit (ASIC), a field programmable gate array (FPGA) or other programmable logic device, discrete gate or transistor logic, discrete hardware components, such as, e.g., registers and FIFO, a processor executing a set of firmware instructions, any conventional programmable software module and a processor, or any

combination thereof. The processor may advantageously be a microprocessor, but in the alternative, the processor may be any conventional processor, controller, microcontroller, or state machine. The software module could reside in RAM memory, flash memory, ROM memory, registers, hard disk, a removable disk, a CD-ROM, or any other form of storage medium known in the art. Those of skill would further appreciate that the data, instructions, commands, signals, bits, symbols, and chips that may be referenced throughout the above description are advantageously represented by voltages, currents, electromagnetic waves, magnetic fields or particles, optical fields or particles, or any combination thereof.

One skilled in the art would clearly recognize that the disclosed “software modules” may contain the claimed program code, and that the disclosed “RAM memory, flash memory, ROM memory, registers, hard disk, a removable disk, a CD-ROM, or any other form of storage medium known in the art” are forms of the claimed computer readable media. As stated in MPEP § 2163.02, the fundamental factual inquiry is whether a claim defines an invention that is clearly conveyed to those skilled in the art at the time the application was filed. The subject matter of the claim need not be described literally (i.e., using the same terms or in *haec verba*) in order for the disclosure to satisfy the description requirement. Furthermore, as stated in MPEP § 2163.07, mere rephrasing of a passage does not constitute new matter. Accordingly, a rewording of a passage where the same meaning remains intact is permissible. *In re Anderson*, 471 F.2d 1237, 176 USPQ 331 (CCPA 1973).

Accordingly, Applicants submit that claims 39-56 clearly satisfy all the requirements of the written description requirement under 35 USC § 112, first paragraph.

Therefore, Applicants respectfully request that the rejections of claims 39-56 under 35 U.S.C. §112, first paragraph be withdrawn.

Rejections under 35 U.S.C. §112, Second Paragraph

Claims 37 and 38 stand rejected under 35 USC § 112, second paragraph, as being indefinite for claiming dependency from canceled claim 1. This rejection is respectfully traversed. By this Amendment, Applicants have amended claims 37 and 38 to depend from claim 19 to correct an inadvertent, typographical error.

Therefore, Applicants respectfully request that the rejections of claims 37 and 38 under 35 U.S.C. §112, second paragraph, be withdrawn.

Double Patenting Rejection - Non-Statutory

Claims 19-36 stand rejected on the grounds of nonstatutory, obviousness-type double patenting as being unpatentable over claims 19 and 21-37 of U.S. Patent No. 6,693,920. Applicants respectfully traverse this rejection. A terminal disclaimer attached hereto is being submitted in compliance with 37 CFR 1.321(c) to overcome this rejection based on a nonstatutory double patenting ground in view of commonly owned U.S. Patent No. 6,693,920, the common ownership being evidenced by an Assignment recorded on Reel 011717 and Frame 0056. Accordingly, these rejections are moot.

REQUEST FOR ALLOWANCE

In view of the foregoing, Applicant submits that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application are earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Deposit Account Authorization

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

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